

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Nucor Steel Marion, Inc.

v.

Civil No. 10-cv-327-SM

Frederick Mauer, IV

O R D E R

On today's date, a telephone conference was held in this case. The following attorneys appeared: Attorneys Daniel P. Schwarz, Paul J. Peralta and Benjamin P. Fryer for the plaintiff and Attorney Philip L. Pettis for the defendant

Plaintiff has filed a request for expedited discovery (Doc. No. 11). Defendant objects. The parties presented their respective positions during the telephone conference. The parties have agreed to continue the preliminary injunction hearing (currently scheduled for October 13, 2010) until November 2, 2010. The parties have further agreed to exchange Rule 26(a)(1) materials forthwith.

While the court is not inclined to grant plaintiff's request for expedited discovery in its current form, the court would be inclined to grant plaintiff limited expedited discovery. The time-frame within which the court would permit limited expedited discovery is limited to the several weeks before defendant left plaintiff's employ and the time since his departure (March 1, 2010, to the present). Plaintiff has not alleged facts sufficient to support a reasonable inference that defendant was engaged in misappropriation before that time-frame.

At the court's request, the parties have agreed to file further pleadings with respect to expedited discovery as follows:

- On or before October 12, 2010, defendant shall file a proposed protective order, as well as search terms for a forensic examination of defendant's computers (and other digital media) that would be acceptable to defendant.
- Plaintiff shall have until October 14, 2010, to file any response thereto.

The court will issue an order on plaintiff's request for expedited discovery shortly thereafter.

In the meantime, the court encourages the parties to cooperate and reach a joint resolution to this discovery issue.



Landya B. McCafferty
United States Magistrate Judge

Date: October 7, 2010

cc: Benjamin P. Fryer, Esq.
Paul J. Peralta, Esquire
Philip L. Pettis, Esq.
Daniel P. Schwarz, Esq.